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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,534	10/25/2001	David B. Lloyd	345008003US1	4416
25096	7590	06/09/2004	EXAMINER	
PERKINS COIE LLP			ENATSKY, AARON L	
PATENT-SEA				
P.O. BOX 1247			ART UNIT	PAPER NUMBER
SEATTLE, WA 98111-1247			3713	

DATE MAILED: 06/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/004,534

Applicant(s)

LLOYD ET AL.

Examiner

Aaron L Enatsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges receipt of amendment on 3/11/04. The arguments set forth in the response are addressed herein below.

### ***Drawings***

Examiner accepts new corrected drawings.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7-19 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,527,641 to Sinclair et al. (Sinclair) in view of US Patent No. 6,470,180 to Kotzin et al. ("Kotzin") in view of US Patent No. 4,858,930 to Sato.

Sinclair teaches a wireless game played by one or more users, where a remote game server tracks the game state (1:48-67). User interaction with the game controls the game state (1:48-67), the game can be saved in the current state at any time (10:51-52), and the game can be restored from a previous state (Fig. 17N). The game system can employ hyperlink technology that includes WML to advance the game state (5:5-29), which can be implemented using wireless phones on existing cellular networks (Fig. 3 and 18:9-12). Sinclair also teaches the

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possibility of user mobile stations using a variety of input devices (19:4-7), interactive games wherein a user can interact with other users of differing device types (4:13-16, Fig. 2), the server system can support more than one content protocol (5:13-29), an additional content protocol using voice and IVRU (6:44-50 and 15:15-29). Sinclair does not specifically teach using different client terminals/devices to play a network game. Kotzin teaches a network game system that can incorporate a wide variety of terminals/devices to participate in the network game (2:48-53). Kotzin also teaches that a wide variety of terminals for use with a network game are necessary to meet the high demand for network gaming (1:40-60). One would be motivated to modify Sinclair to use the variety of game terminals taught by Kotzin to provide a highly available game that is suitable for multiple platforms to meet the great demand for network gaming. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made modify Sinclair using a variety of devices to increase game availability, thus a creating larger potential user base, to meet high game demand. In regard to claims directed at logging on to different sessions on different game machines, Applicant is attempting to distinguish claims over prior art using one of the most basic tenants of multi-user, network connected machines. Multi-user, network connected machines are grounded to the concept of program availability where network connectivity can be established. While the specific feature is unstated in Sinclair in view of Kotzin, it is considered well within the capabilities of one of ordinary skill in the art to allow game connectivity independent of the end user device, especially in light of the availability of persistent game states. Additional support for game play at different times can be found in Sato. Sato teaches a game system comprised of two differing systems, where a user plays a game at a first system, then later can continues the game on a disparate

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system (9:13-19). The type of game suggested by Sato is one of a role playing game, which can involve multiple players (6:66-9:19). While Sato does not teach aspects of the network storage, it is further evidence to support Examiner's suggestion that it was known at the time of Applicant's invention to have games that can take place on multiple different systems.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinclair in view of Kotzin in view of Sato as applied to claims 1-5, 7-19 above, and further in view of US Patent No. 5,890,963 to Yen. Sinclair in view of Kotzin in view of Sato teaches the claimed limitations as discussed above, but does not teach game state progressing beyond a saved game state at the end of a first session. Yen teaches a wireless interactive game that allows for continuous and progressive game play (Abstract). Yen further teaches that the game will continue to progress even if a game participant is not connected and playing a game (6:34-43). Sinclair in view of Kotzin in view of Sato and Yen are related as analogous wireless game systems, where both systems allow multiple participants in a mobile wireless game. One would be motivated to modify Sinclair in view of Kotzin in view of Sato to include the progressive game play taught by Yen to add a sense of realism to Sinclair in view of Kotzin in view of Sato's existing game. Sinclair in view of Kotzin in view of Sato provides further motivation through disclosing the potential of adding real world data to affect the game state. By allowing a game to progress while not connected, as taught by Yen, the game environment/situations would be given a greater sense of uncertainty, lending to game realism. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Sinclair in view of Kotzin in view of Sato to include progressive game play taught by Yen to provide a player with a more realistic game

### ***Response to Arguments***

Applicant's arguments filed 03/11/04 have been fully considered but they are not persuasive. Examiner has provided a modified response in light of Applicant's submitted amendments and arguments. Examiner has added further citations in Sinclair that recite that the game discussed is in fact a multi-player game that can involve users on different platforms, and handle multiple different protocols. In particular, (4:13-16, Fig. 2) where Sinclair discusses interactive games to interact with other users, wherein the other users are different application types. This refutes Applicant assertion that Sinclair is only involved in single user game. The response is detailed above in the new rejection.

### ***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6,745,236 to Hawkins et al. teaches a multi-user, multi-session network game wherein the hardware used to play the game is not crucial.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron L Enatsky whose telephone number is 703-305-3525. The examiner can normally be reached on 8-6 M-Th.

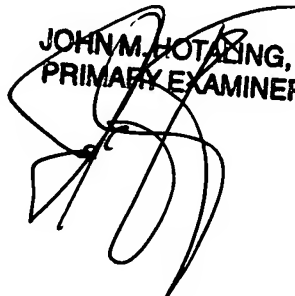
If attempts to reach the examiner by telephone are unsuccessful, the examiner's Primary Examiner, John Hotaling can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALE

JOHN M. HOTZLING, II  
PRIMARY EXAMINER

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over the printed name and title of the primary examiner.